

NOTICE OF INDEPENDENT REVIEW DECISION

Date: October 25, 2004

RE: MDR Tracking #: M2-05-0069-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a psychiatric reviewer (who is board certified in psychiatry) who has an ADL certification. The physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Notification of IRO assignment
- Pain assessment and care evaluation dated 7/20/04
- Psychiatric evaluation dated 7/20/04
- Letter of non-authorization dated 8/12/04
- Request for reconsideration dated 8/4/04
- Non-authorization after appeal dated 8/12/04
- CAT Scan of the head dated 9/11/02
- Right shoulder MRI dated 9/19/02
- MRI of the C-spine dated 9/19/02
- MRI of the right shoulder dated 3/3/04
- MRI of the lumbar spine dated 3/3/04
- EMG/nerve conduction studies dated 9/18/02
- Evaluations and notes from ___ spanning the time period from 9/10/02 – 7/6/04.

Submitted by Respondent:

- None submitted.

Clinical History

The claimant was reportedly injured when he fell backward and had a tank of aloe vera solution fall upon him. He was seen by the company doctor who diagnosed him as having a fracture of the left big toe. Subsequently, 2 months after the injury he saw ___ and was reporting cervical pain, headache, back pain, and shoulder pain. He was also reporting confusion, visual changes, tinnitus, and nosebleeds. He has had physical therapy, epidural steroid injections, and surgery of his right shoulder as well as medications without substantial improvement in his symptoms and in fact the symptoms as documented by ___ appear to have progressed. On the most recent visit to ___, the claimant was reporting insomnia, depression, anxiety, and “anger crisis.” ___ referred him for a functional capacity examination (FCE), psychological evaluation, and anger management. The non authorizations for the chronic pain management program were based on the clinical information not supporting the request and strong evidence of malingering.

Requested Service(s)

Review the medical necessity of a 30 day chronic pain management program (chronic pain management program).

Decision

I do not believe that a multidisciplinary chronic pain management program is medically indicated at this juncture.

Rationale/Basis for Decision

There are a number of reasons that a chronic pain management program is not medically necessary at this juncture for this individual: First, the claimant has not been engaged in lesser levels of psychiatric care. He has not had any treatment for depression or anxiety. Secondly, ___ refers the patient for a FCE, psychological evaluation, and anger management in his note dated 7/6/04. He does not indicate referral for a chronic pain management program. While approximately a year ago, ___ did refer the claimant for a chronic pain management program, at the time the claimant was still trying lower levels of treatment. Thirdly, there are a number of notes indicating that ___ wants a second opinion from an orthopedic surgeon; however, it is not apparent from the notes submitted that this was obtained. Finally, apparently there is a videotape of the claimant that suggests his physical capabilities are much greater than he is reporting. The fact that the claimant did suffer some injuries from the work accident does not preclude the possibility that malingering may be playing a role in the perpetuation of his symptoms as the requestor seems to be asserting. If malingering is present, a chronic pain management program would be ineffective. While the requestor asserts that ___ does not believe this tape shows anything, it would be premature to approve a chronic pain management program without documentation from ___ addressing whether and why he does not feel the tape is indicative of malingering.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744
Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 25th day of October 2004.